

CIVIL LITIGATION - CHILD ABUSE REPORTING IMMUNITY

Morgan v. Bird, 289 S.W.3d 222 (Ky. App. 2009)

FACTS: In April, 2007, Bird reported actions of her neighbors (the Morgans) that she believed constituted child abuse and neglect - specifically, she observed their toddler drinking from a beer can. The observation triggered an angry reaction from the neighbor. Bird contacted her son, Officer Bird (Williamsburg PD) and reported what had occurred. Officer Bird contacted CHFS and he and the social worker (Bryant) arrived within the hour. Both investigated the incident, and during the course of the investigation, Officer Bird followed Felicia Morgan (the child's mother) and Bryant into the house, and eventually into the bedroom. Bryant noticed a pill bottle with a scratched off label and he was told conflicting stories about what it contained.

Eventually, Bryant decided to place the child with a grandmother while the parents obtained drug tests. Eventually, after passing tests and agreeing to a child "plan," the couple regained custody of the child.

The Morgans then sued all parties involved, as well as the City of Williamsburg, alleging that the child was removed from their home based upon a "false, unsubstantiated report" and that such actions violated various rights. The trial court dismissed the action and the Morgans appealed.

ISSUE: Is a good faith report of child abuse protected by immunity?

HOLDING: Yes

DISCUSSION: First, the Court addressed the immunity provisions in KRS 620.030, which provides for both the requirement to make a report when a child is being abused or neglected, and provides for immunity for an individual who, in good faith, does so. The Court found no reason to doubt that Bird acted in good faith or that Bird lied about what she saw. Her report to her son, a law enforcement officer in the jurisdiction, was also proper under the statute.

Further, the Morgans assert that Officer Bird "acted in bad faith by not investigating the alleged bad faith report of neglect ... before reporting it to CHFS and that the City and its Council members were negligent in supervising and training Officer Bird." The Court quickly agreed that the officer "properly followed the guidelines outlined in KRS 620.030 for reporting a claim of neglect to CHFS." The Court further noted that Bird did not illegally search the Morgan home, as alleged, but instead simply followed the social worker through the home. His observations did not factor into Bryant's determination to seek a temporary alternative placement for the child. In fact, the Court noted the "prompt investigation and replacement of the child at issue in the instant case was a well executed illustration of the intent and framework of KRS 620.030."

The Court upheld the dismissal.